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## BOOK REVIEWS.

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THE REVISION AND AMENDMENT OF STATE CONSTITUTIONS. By Walter Fairleigh Dodd. Baltimore: The Johns Hopkins Press, 1911, pp. xvii, 350.

The subject of this book is in a field which has lain dormant since the publication of Judge John A. Jameson's great work on Constitutional Conventions, first published in 1867, the last edition of which appeared in 1887. The richness of this field for students of government was commented upon by Mr. Bryce many years ago,<sup>1</sup> and it seems strange that for so long it remained almost uncultivated. The subject has been treated in a few brief monographs, and incidentally in Judge Cooley's Constitutional Limitations and in other works referred to in the author's preface. Judge Lobingier's work "The People's Law," appeared in 1909. But Dr. Dodd's study may fairly be said to be the first comprehensive study since Judge Jameson's book of this important governmental machinery; and its brevity leaves much yet to be done.

The work is a concise study, unspeculative in nature, of the actual "practice concerning the amendment and revision of state constitutions." It appears to be based upon a pains-taking examination of practically all of the available "first sources" including the proceedings of conventions, and other official records and documents, and decided cases, as well as of the works of other writers. While written, perhaps, from the point of view of the political scientist, the constant reference to and citation of legal authorities makes the book most useful to the practicing lawyer in constitutional matters. Judge Jameson's work was written in the early reconstruction days, when decided cases on the subject were few, and as Dr. Dodd thinks, its facts are marshalled more to support a theory than in accordance with practice. However that may be the earlier book was a fine creative piece of work, which has contributed much to the development of the subject and is likely to long exercise a great influence upon it.

The first two chapters of Dr. Dodd's book are devoted to a brief, but scholarly survey of the history of conventions. Chapter III is a most interesting statement of the "legal position of the constitutional convention," in which the author controverts Judge Jameson's central theory that a convention is absolutely subject to the limitations put upon it by the legislature in the creating act. This view, of course, would make the convention subordinate if not subservient to the existing government, a condition which would deprive this great engine of the popular will of most of its power. Dr. Dodd shows conclusively, by references to some recent constitutions and to many cases decided since Judge Jameson wrote, that the latter's theory cannot now be maintained. As Dr. Dodd says, p. 79, "The process of piece-meal amendment of state constitutions is absolutely under the control of the state legislatures, except in states which have adopted the popular initiative." But as to the larger activities of revision of old, or the drafting of new constitutions,

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<sup>1</sup> American Commonwealth (Ed. 3, 1895), p. 450, and Chap. XXXVIII, *passim*.

it would seem "that the convention is a regular organ of the state (although as a rule called only at long intervals)—neither sovereign nor subordinate to the legislature, but independent within its proper sphere. Under this view the legislature cannot bind the convention as to what shall be placed in the constitution, or as to the exercise of its duties." (See pp. 80-84.) In this connection the interesting but unconvulsive experience of Michigan, in regard to her recent constitutional convention, is referred to.<sup>2</sup>

Chapter IV. is devoted to a somewhat detailed discussion of the successive steps in the amendment of state constitutions. The final chapter is an interesting discussion of the "working of the constitutional referendum." The author states that during the decade, 1899-1908, four hundred and seventy-two constitutional questions were submitted to the voters of the several states. (p. 268.) Of these fifty-one were submitted in California, twenty-two in Michigan. In Massachusetts only fifty-nine constitutional changes were proposed during the long period 1780-1907. The trivial character of many of these constitutional proposals is shown by a few examples. The showing as to the absence of public discussion and the smallness of the popular vote, pp. 274-278, should give pause to the ardent advocates of direct legislation by the people.

Tabulated statements concerning these proposals, including statistics as to the votes by which they were adopted or rejected appear in the Appendix. It is significant and disquieting to learn that in the large majority of these submissions to the people less than half of those voting at the general election, were interested to vote upon the proposed constitutional changes. The author's deductions from these facts would have been interesting, but the data are there, and the information they afford should be given wide circulation.

One might quarrel with Dr. Dodd as to his failure to discuss some topics pertinent to the general subject, and differ from his judgment as to the relative amounts of treatment accorded to certain other topics. But the book is nevertheless an accurate, scholarly piece of work and distinctly an important and timely contribution to a subject of vital interest.

H. M. B.

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A PHILADELPHIA LAWYER IN THE LONDON COURTS. By Thomas Leaming. New York: Henry Holt and Company, 1911, pp. xiii, 199.

As is stated in the preface of this book, most Americans, even American lawyers, know comparatively little of the details of the elaborate English system of judicial administration: its abstract reasonings and results are known—the decisions of the English courts are watched and freely cited by our attorneys in our courts—but of the personal side of that venerable system—how it works, and who works it—most Americans are ignorant. We know generally that the fundamental basis on which litigation is conducted in England is the same as with us, we see from the English reports that in most in-

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<sup>2</sup> *Carton v. Secretary of State*, 151 Mich. 337.